Filed 11/23/16 P. v. Dunmore CA2/4

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE, Plaintiff and Respondent, v. MIKAL SHAQUIL DUNMORE, Defendant and Appellant.	B266148 (Los Angeles County Super. Ct. No. KA108505)

APPEAL from a judgment of the Superior Court of Los Angeles County, Salvatore Sirna, Judge. Affirmed.

Dwyer + Kim and Jin H. Kim, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Mikal Shaquil Dunmore pled no contest to one count of second degree robbery (Pen. Code, § 211),[1] admitted a strike prior (§§ 667, subd. (d), 1170.12, subd. (b)), and waived all of his presentence credits. In exchange, the court sentenced him to a term of 10 years in state prison, and dismissed allegations that he personally used a knife (§ 12022.5, subd. (b)), had been convicted of a prior serious felony (§ 667, subd. (a)(1)) and had served a prior prison term (§ 667.5, subd. (b).)[2]

The evidence at the preliminary hearing showed that around midnight on December 7, 2014, defendant robbed Raquel Alt, the swing shift manager at a McDonald's in Glendora. Wearing a bandana covering his face except for his eyes and holding a knife, he demanded that Alt open the safe and put the money in a back pack. She gave him approximately $1,700. Later that morning at 6:00 a.m., police searched defendant's residence and found a backpack with a little over $1,400 in cash and a black bandana that was folded into a triangle. Codefendant Potter, who was at defendant's residence, told police that she drove defendant to McDonald's and knew what he was going to do. Codefendant Estevane—the mother of defendant's child and a manager at the McDonald's—told police that defendant had asked her about who would be working at McDonald's on December 7. In his police interview, defendant admitted that he committed the robbery, but denied using a knife.

Following his no contest plea, defendant twice requested a certificate of probable cause to appeal under section 1237.5. The trial court denied the requests.

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1 Undesignated section references are to the Penal Code.

2 Defendant was jointly charged in the robbery with Amparo Maricela Estevane and Bryce Imani Potter. They entered negotiated dispositions as well.

Defendant purports to appeal from the judgment. His court appointed attorney filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436, asking that we independently review the record to determine whether there are any arguable issues. Defendant was informed of his right to file a supplemental brief, but no such brief has been filed.

"Section 1237.5 states broadly that '*[n]o appeal* shall be taken by the defendant from a judgment of conviction upon a plea of guilty or nolo contendere . . . except where both of the following are met: [¶] (a) The defendant has filed with the trial court a written statement, executed under oath or penalty of perjury showing reasonable constitutional, jurisdictional, or other grounds going to the legality of the proceedings. [¶] (b) The trial court has executed and filed a certificate of probable cause for such appeal with the clerk of the court.' (§ 1237.5, italics added.)" (*People v. Johnson* (2009) 47 Cal.4th 668, 676.) Although the language of section 1237.5 is broad, the California Supreme Court has recognized two exceptions to the requirement of a certificate of probable cause for an appeal arising from a guilty or no contest plea. "First, a defendant may appeal from a ruling involving a search and seizure issue without obtaining a certificate, because an appeal from such a ruling explicitly is authorized by section 1538.5 . . . . [Citations.] Second, a defendant is 'not required to comply with the provisions of section 1237.5 where . . . he [or she] is not attempting to challenge the validity of his plea of guilty [or no contest] but is asserting only that errors occurred in the subsequent adversary hearings conducted by the trial court for the purpose of determining the degree of the crime and the penalty to be imposed.' [Citation.]" (*Id.* at p. 677.)

In the present case, neither exception applies: no motion to suppress evidence was made, and having independently reviewed the record of the plea

and sentencing, we find no arguable issue regarding the degree of the crime or the sentence imposed. Therefore, we affirm the judgment.

DISPOSITION

The judgment is affirmed.

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WILLHITE, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.